

BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)
FOR BENEFICIAL WATER USE PERMIT) FINAL ORDER
NO. 76698-s76H BY DONALD B. AND)
GRACE E. KOEPPEN)

* * * * *

Pursuant to the provisions of the Montana Water Use Act and to the contested case provisions of the Montana Administrative Procedure Act, a hearing in the above-entitled matter was scheduled to be held at 2:00 p.m. on June 18, 1991, in the Small Meeting Room of the Missoula Public Library. At 2:00 p.m. Applicant Donald B. Koeppen, Objector William T. Gilleard, Michael P. McLane, Manager of the Missoula Water Resources Regional Office of the Department of Natural Resources and Conservation (Department), and the Hearing Examiner were present. During the prehearing conference, Mr. Koeppen and Mr. Gilleard, reached an agreement. The Examiner then opened the record of the hearing in this matter and dismissed the objections of Walter and Gretta Matusick and the Rental Center. Objectors Betty Elaine Garnett, Verlis J. Mickens, Vernon A. and Rebecca M. Stephens, Dale R. and Ruth M. Peterson, and Harley and Wynette Garnett had previously withdrawn their objections to this Application in accordance with certain agreements.

The Applicants have provided prima facie evidence that the criteria set forth in § 85-2-311(1) and (4), MCA, for issuance of a permit have been met by virtue of their Application and submission of independent water measurements.

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CASE # 76698

THEREFORE, the Department makes the following:

ORDER

That subject to the terms, conditions, restrictions, and limitations set forth below, Beneficial Water Use Permit No. 76698-s76H by Donald B. and Grace E. Koeppen to appropriate 60 gallons per minute up to 43.75 acre-feet per year of water from an unnamed tributary of Kootenai which is runoff, drain, waste, and seepage water affected by Sharrot Creek and Larson Creek irrigation waters. These waters will be diverted at a point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, Township 9 North, Range 20 West, in Ravalli County, by means of a drain ditch and will be used for irrigation of 10 acres in the E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 17 from April 15 to October 1, inclusive of each year.

This Permit is subject to all prior existing water rights in the source of supply. Further; this permit is subject to any final determination of existing water right, as provided by Montana law.

The Applicants shall keep a written record of the flow rate and volume of all water diverted, including the period of time, and shall submit said records to the Department upon request. This condition is being applied to this Permit until quantification through permit verification occurs.

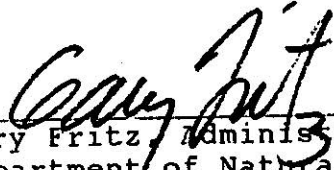
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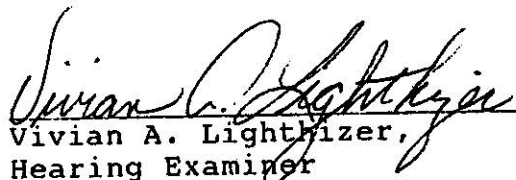
The Department's Final Order may be appealed in accordance with the Montana Administrative Procedure Act by filing a petition in the appropriate court within 30 days after service of

76698-764

the Final Order.

Dated this 21 day of June, 1991.


Gary Fritz, Administrator
Department of Natural
Resources and Conservation
Water Resources Division
1520 East 6th Avenue
Helena, Montana 59620-2301
(406) 444-6605


Vivian A. Lighthizer,
Hearing Examiner
Department of Natural
Resources and Conservation
1520 East 6th Avenue
Helena, Montana 59620-2301
(406) 444-6625

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Final Order was duly served upon all parties of record at their address or addresses this 24th day of June, 1991 as follows:

Donald B. Koeppen
Grace E. Koeppen
406 Kootenai Cr. Rd.
Stevensville, MT 59870

Walter J. Matusick
Gretta Matusick
4084 Hwy 93 N.
Stevensville, MT 59870

Betty Elaine Garnett
4304 Lake Place
Missoula, MT 59803

Verlis J. Mickens
371 One Horse Creek Road
Florence, MT 59833

Rental Center
3938 Hwy 93 N.
Stevensville, MT 59870

Dale R. Peterson
Ruth M. Peterson
428 Bowman Rd.
Hamilton, MT 59840


William T. Gilleard
3803 Salish Trail
Stevensville, MT 59870

Harley Garnett
Wynette Garnett
257 Kootenai Creek Road
Stevensville, MT 59870

CASE # 76698

Vernon A. Stephens
Rebecca M. Stephens
4160 Stevensville River Rd.
Stevensville, MT 59870

Michael P. McLane, Manager
Missoula Water Resources
Regional Office
P.O. Box 5004
Missoula, MT 59806


Cindy G. Campbell
Hearings Unit Legal Secretary

CASE # 766698